

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

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| STATE OF OHIO, | : | APPEAL NO. C-130653 |
| | : | TRIAL NO. 13CRB-7004 |
| Plaintiff-Appellee, | : | |
| | : | <i>JUDGMENT ENTRY.</i> |
| vs. | : | |
| ASHLEY BOLDEN, | : | |
| Defendant-Appellant. | : | |

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

In two assignments of error, defendant-appellant Ashley Bolden appeals her conviction for criminal trespass. The charge arose when Bolden became intoxicated and belligerent while playing blackjack at the Horseshoe Casino in Cincinnati. When asked to leave, she refused to do so, stating that she wanted to stay to win back what she had lost.

In her first assignment of error, Bolden claims that her conviction was based on insufficient evidence. In her second assignment of error, Bolden argues that the conviction was contrary to the manifest weight of the evidence. In reviewing a record for sufficiency, we must determine whether any rational trier of fact could have found the essential elements of the crime proved beyond a reasonable doubt, when viewing the evidence in the light most favorable to the prosecution. *State v. Jenks*, 61 Ohio St.3d 259, 574 N.E.2d 492 (1991). When considering whether a conviction is contrary to the manifest weight of the evidence, the court reviews the entire record, weighs the evidence, considers the credibility of the witnesses, and determines whether the trier of fact clearly lost its way and created a manifest miscarriage of justice. *State v. Martin*, 20 Ohio App.3d 172, 175, 485 N.E.2d 717 (1st Dist.1983).

For the trial court to find Bolden guilty of criminal trespass, the state had to prove that she had knowingly remained on the casino property without privilege to do so. R.C. 2911.21(A)(1). The only testimony presented was from an employee of the casino. The employee testified that a dispute arose between Bolden and the blackjack dealer, who had mistakenly taken Bolden's chips when Bolden had not lost the hand. The dealer returned Bolden's chips when the error was discovered. Bolden continued to play at the table, being disruptive, using profanity, and being aggressive toward the dealer and the dealer's supervisor. She was then asked to leave the property for 24 hours. Bolden refused to leave, demanding that she be allowed to remain until she had recovered her gaming losses. Casino employees were able to escort Bolden from the table to another area of the casino, where she remained and argued with casino employees. A review of the video surveillance footage shows that, at one point just before her arrest, a waitress approached Bolden and gave her some money. Because Bolden was still refusing to leave, Cincinnati police officers, who were working a detail at the casino, were called. When the officers arrived, Bolden put her hands on one of the officers. She was then escorted away and arrested.

On appeal, Bolden claims that the video footage of the waitress demonstrates that she was privileged to remain on the property because the casino still had her money. In support of that argument, she cites *State v. Logsdon*, 160 Ohio App. 3d 517, 2005-Ohio-1875, 827 N.E.2d 869 (1st Dist.). In that case, a protester at an abortion clinic entered the property for the purpose of retrieving his sign that had been taken by a clinic employee. This court held that the defendant was privileged to enter the property to retrieve the sign. The defendant had not given permission for the sign to be taken into the clinic, and he had entered the property peacefully and had remained only long enough to retrieve the sign.

This case is significantly different from *Logsdon*. First, there was no evidence presented as to why the waitress had given money to Bolden. The casino employee who

testified at trial could not explain the incident. In her brief, Bolden surmises that the money was paid to settle the dispute with the dealer. But the video recording indicates that that matter had been resolved while Bolden was still at the blackjack table. And the employee testified that cocktail waitresses do not exchange gaming chips for money. At oral argument, counsel suggested that the money was change for a drink order. But this is also speculation. Regardless, unlike in *Logsdon*, whatever property Bolden had placed on deposit with the casino was placed there voluntarily. Further, unlike the protester in *Logsdon*, Bolden was not acting peacefully, and she admitted that she was remaining on the property for more than just to reclaim her property. Thus, the exception to the trespass statute for the retrieval of property outlined in *Logsdon* does not apply in this case.

Bolden was asked to leave the casino for 24 hours because she had become drunk, belligerent, and profane. She refused to leave because she wanted to win back the money she had lost. Her conviction for criminal trespass was based on sufficient evidence and was not contrary to the manifest weight of the evidence. We therefore overrule her two assignments of error, and affirm the judgment of the trial court.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

HILDEBRANDT, P.J., DINKELACKER and DEWINE, JJ.

To the clerk:

Enter upon the journal of the court on June 18, 2014
per order of the court _____.
Presiding Judge